

Rep. Nadler Statement on Employment Non-Discrimination Act

Tuesday, 06 November 2007

WASHINGTON, D.C. — Congressman Jerrold Nadler (NY-08), Chair of the Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties, today issued the following statement on the Employment Non-Discrimination Act (ENDA):

“I am committed to the passage of an ENDA that protects lesbian, gay, bisexual and transgender employees. In America, we value fairness and equality, and our laws should reflect those values. Every individual should be able to work and contribute to society without fear that she or he will be discriminated against because of their actual or perceived sexual orientation or gender identity.

“I have been a lead sponsor of proposals like ENDA every time they were introduced since I became a member of the New York State Assembly back in 1977. Since coming to Congress, I have sponsored similar legislation every single session. And I am a proud original co-sponsor of the original bill that protects the entire LGBT community.

“In recent weeks, there has been much discussion among ENDA’s supporters about how to reach our shared goal of passing the strongest possible bill. Some believe that a bill that does not prohibit discrimination based on gender identity has a better chance of being adopted by the House. I know that those who argue for this route do so out of a sincere belief that this is the best strategy for passage at this time, not because of malice or indifference towards the transgender community.

“I believe, however, that civil rights are best advanced by bringing forward a bill that adequately protects all members of the LGBT community. While this may be risky, that is not reason to accept defeat before the fact, and leave behind members of the community who desperately need protections against employment discrimination.

“As we have seen in many states, the failure to include the transgender community in civil rights legislation from the beginning makes it more difficult to extend protections later. In fact, my own state of New York, which has employment protections for lesbians and gays, has yet to extend these protections to the transgender community.

“The Senate has yet even to introduce its version of ENDA. Indeed, even if Congress were to adopt a non-inclusive ENDA, the President has already pledged to veto this legislation. However, we must look to the future when we have a President who will support equality. I believe it is important we take a principled stand now, and speak with a strong and united voice for equal rights for all Americans, whether they are lesbian, gay, bisexual, or transgender, in order to maximize the chance that, what we can enact an ENDA bill into law, it will be an inclusive bill that protects everyone’s rights. And, we must better educate lawmakers and the public about the issues of gender identity and expression.

“While I may disagree with some of my colleagues on strategy, I assure you that we are united in support of the ultimate goal — protection from employment discrimination for the entire LGBT community. No one should underestimate the strength of that common commitment or our dedication to seeing it realized.

“Transgender Americans — because of a lack of familiarity and understanding -- are more likely to face employment discrimination and, therefore, more in need of the protection from irrational discrimination that an inclusive ENDA would afford.

“And removing gender identity from ENDA may also leave lesbian and gay employees vulnerable to discrimination for failing to conform to gender stereotypes. In other words, some employers and courts might take an overly restrictive view that an exclusive ENDA fails to protect lesbians who appear ‘too masculine’ or gay men who appear ‘too effeminate.’ That is not our intent — nor do we believe that it is an accurate reading of the bill — but Congressional intent does not always carry the day. Splitting sexual orientation and gender identity disservices the entire LGBT community and invites the kind of legal mischief that has undermined other civil rights laws.

“The fundamental issue is this: there are still too many places where it is entirely legal to discriminate against lesbian, gay, bisexual or transgender employees. We must bring an end to this unfair, unacceptable and un-American situation. ‘Liberty and justice for all’ must not just be words we say, they must be the values reflected in our laws.

“In the past weeks, I, like many of my colleagues in the House, have heard from my constituents and from various advocacy groups, urging the adoption of an inclusive ENDA. Like these passionate individuals and groups, I believe that full equality is our goal. I have never seen such unanimity from the civil rights and LGBT groups on this issue — more than 300 have voiced their support for an inclusive ENDA, and have all but a very few have explicitly rejected an exclusive ENDA.

“When the House considers ENDA today, I will support the amendment, introduced by Congresswoman Baldwin, to restore the protections from discrimination based on gender identity. Should that amendment fail, I will not be able to vote for the underlying bill because it fails to uphold the American values of fairness and equality.”

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